

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SUSAN EVERETT,
Plaintiff,

v.

THE MATERNAL CHILD
CONSORTIUM, LLC,
Defendants.

CIVIL ACTION

NO. 18-746

O R D E R

AND NOW, this 10th day of July, 2018, upon consideration of Defendant's Motion to Dismiss (ECF No. 3), Plaintiff's Response in Opposition thereto (ECF No.7) and Defendant's Reply Brief in Further Support thereof (ECF No. 8), **IT IS HEREBY ORDERED** that Defendant's Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

- (1) Defendant's Motion to Dismiss Count I (ADA) is **GRANTED**. Count I is **DISMISSED WITHOUT PREJUDICE**.
- (2) Defendant's Motion to Dismiss Count II (FMLA) is **DENIED**.
- (3) Defendant's Motion to Dismiss Count III (FLSA) is **GRANTED IN PART AND DENIED IN PART**. Count III is **DISMISSED WITHOUT PREJUDICE** insofar as it alleges violations of the FLSA prior to February 18, 2016 or failure to compensate Plaintiff for "on-call" work. Count III is **DISMISSED WITH PREJUDICE** insofar as it alleges violations of the FLSA prior to February 18, 2015.
- (4) Defendant's Motion to Dismiss Count IV (PMWA) is **GRANTED IN PART AND DENIED IN PART**. Count IV is **DISMISSED WITH PREJUDICE** insofar as it alleges violations of the PMWA prior to February 18, 2015.

Plaintiff shall have leave to file an amended complaint no later than August 14, 2018.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J